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EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

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OFFICE OF PETITIONS

In re Application of :
Cameron et al. :
Application No. 09/129,113 : ON PETITION
Filed: 4 August, 1998 :
Att'y Docket No. 50349 :

This is a decision on the petition under 1.137(b),¹ filed on 1 March, 2003, to revive the above-identified application.

The Office apologizes for the delay and regrets any inconvenience to petitioner.

The petition is **GRANTED**.

This application became abandoned on 8 March, 2002, for failure to file a timely reply to the Notice of Appeal filed on 8 August,

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

2001, which set a two (2) month shortened period reply. On 8 March, 2002, petitioners filed a five (5) month extension of time and a Continued Prosecution Application (CPA). The CPA was improper, however, because it was a second request for CPA and was not accompanied by a submission under 37 CFR 1.114. The final rejection mailed on 6 May, 2002, was vacated on 2 December, 2002. Notice of Abandonment was mailed on 2 December, 2002. The present petition was filed under 37 CFR 1.181 and 1.137(b) on 1 March, 2003. The petition to withdraw the holding of abandonment under 37 CFR 1.181 was denied on 1 July, 2003.

The petition for withdraw of the holding of abandonment having been denied, the petition to revive has been forwarded to the Office of Petitions for a decision.

The present petition is accompanied by an amendment.

The petition fee will be charged to counsel's deposit account, No. 04-1105, as authorized in the present petition.

The application file is being forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions